

Proposed Amendments
to
California Code of Regulations
Title 16, Division 17

§1775. Citations and Fines.

(a) ~~A board inspector or committee of the board may issue citations containing orders of abatement and fines for any violation of the Pharmacy Law or regulations adopted pursuant thereto statutes and regulations referred to in Section 1775.1.~~

(b) Each citation shall be in writing and shall describe with particularity the nature and facts of the violation, including a reference to the statute or regulations alleged to have been violated. The citation shall be served upon the individual personally or by certified mail.

(c) A citation must inform the cited person or entity that if he/she or it desires a hearing to contest the finding of a violation, that hearing shall be requested by written notice to the board within 30 days of the issuance of the citation. If a hearing is not requested pursuant to this article, payment of any fine shall not constitute an admission of the violation charged.

(d) A committee of the board shall meet periodically in both the northern and southern portions of the state for the purpose of reviewing alleged violations, including notices of violation issued by the board, and issuing citations to licensees of the board. A person or entity shall appear, upon request of the board, before a committee of the board. The request to appear shall include a summary of alleged violations to be reviewed at that hearing. Persons or entities may reschedule their appearance before a committee of the board to review an alleged violation once. A committee of the board may issue a citation and impose a fine in the absence of a person who fails to appear a second time. Citations shall be issued within 60 days of the committee meeting where the determination to issue the citation was made.

Authority: Sections 125.9, 148, and 4005 Business and Professions Code.

Reference: Sections 125.9 and 148 Business and Professions Code.

Section 1775.1 is repealed.

~~1775.1. Violations Subject to Citation and Fine.~~

(a) ~~— A board inspector may issue a citation under Section 1775 for a violation of the provisions listed below.~~

- ~~(1) Business and Professions Code Section 4051(a)~~
- ~~(2) Business and Professions Code Section 4110(a) and 4130(a)~~
- ~~(3) Business and Professions Code Section 4112~~
- ~~(4) Business and Professions Code Section 4120~~
- ~~(5) Business and Professions Code Section 4141~~
- ~~(6) Business and Professions Code Section 4160~~
- ~~(7) Business and Professions Code Section 4162~~
- ~~(8) Business and Professions Code Section 4231~~
- ~~(9) Title 16 California Code of Regulations Section 1732.5~~
- ~~(10) Title 16 California Code of Regulations Section 1781~~

(b) ~~— A committee of the board may issue a citation under Section 1775 for a violation of the provisions listed below.~~

- ~~(1) Business and Professions Code Section 4074~~
- ~~(2) Title 16 California Code of Regulations Section 1707.1~~
- ~~(3) Title 16 California Code of Regulations Section 1707.2~~
- ~~(4) Title 16 California Code of Regulations Section 1707.3~~
- ~~(5) Title 16 California Code of Regulations Section 1744~~

1775.15 Executive Officer, Citations.

(a) The executive officer may issue citations for violations of the following :

- (1) Article 8 of the Pharmacy Law (Commencing with Business and Professions Code Section 4130) and any regulations relating to medical device retailers.
- (2) Article 9 of the Pharmacy Law (Commencing with Business and Professions Code Section 4140) and any regulations relating to hypodermic needles and syringes.
- (3) Article 11 of the Pharmacy Law (Commencing with Business and Professions Code Section 4160) and any regulations relating to wholesalers and manufacturers.
- (4) Article 13 of the Pharmacy Law (Commencing with Business and Professions Code Section 4180) and any regulations relating to nonprofit or free clinics.
- (5) Article 14 of the Pharmacy Law (Commencing with Business and Professions Code Section 4190) and any regulations relating to surgical clinics.
- (6) Article 15 of the Pharmacy Law (Commencing with Business and Professions Code Section 4196) and any regulations relating to veterinary food-animal drug retailers.
- (7) Article 17 of the Pharmacy Law (Commencing with Business and Professions Code Section 4230) and any regulations relating to continuing education.
- (8) Section 1708.2 of Title 16 of the California Code of Regulations.

(b) The executive officer may also issue citations, in accordance with Section 148 of the Business and Professions Code, against any person (as defined in Section 302 of the Code) who is performing or who has performed services for which licensure is required under the Pharmacy Law or regulations adopted pursuant thereto. Each citation issued under this section shall contain an order of abatement. The sanction authorized under this section shall be separate from and in addition to any other civil or criminal remedies.

(c) Appeals of any citation issued by the executive officer shall be heard by a committee of the board where the appellant appears in person before the committee. Requests for a hearing by a committee of the board must be submitted within 14 days of receipt of the citation. A committee of the board may either affirm, modify (but not increase) or dismiss the citation, including any administrative fine or order of abatement.

Authority: Sections 125.9, 148, and 4005 of the Business and Professions Code.

Reference: Sections 125.9 and 148 of the Business and Professions Code.

§1775.2. Amount of Fines and Factors Considered.

In no event shall the a fine issued pursuant to Section 1775 exceed \$2,500 for violations of the code sections set forth in section 1775.1.

In his/her or its discretion, a ~~board inspector~~ the executive officer or a committee of the board may issue a citation with an order of abatement without levying a fine for a violation of any provision set forth in section 1775.1.

In assessing the amount of an administrative fine, the ~~board inspector~~ executive officer or a committee of the board shall give due consideration to the following factors:

- (a) The gravity of the violation.
- (b) The good or bad faith of the cited person or entity.
- (c) The history of previous violations.
- (d) Evidence that the violation was or was not willful.
- (e) The extent to which the cited person or entity has cooperated with the board's investigation.
- (f) The extent to which the cited person or entity has mitigated or attempted to mitigate any damage or injury caused by the violation.
- (g) Other matters as may be appropriate.
- (h) The number of violations found in the investigation.

Authority: Sections 125.9, 148, and 4005 of the Business and Professions Code.

Reference: Sections 125.9 and 148 of the Business and Professions Code.